

REMARKS

Claims 1-3 and 9-22 are in this application and are presented for consideration. By this amendment, Applicant has amended claims 1-3 and claims 4-8 have been canceled. New claims 9-22 have been added.

The Office Action provides guidelines illustrating the preferred layout for the specification.

Applicant attached a substitute specification as well as a marked-up copy of the original specification. Specifically, the specification has been amended to include the appropriate section headings and to delete references to the claims.

Claims 1-9 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has amended the claims paying close attention to the Examiner's remarks. Specifically, Applicant has amended the claims to address the antecedent basis issues noted in the rejection. It is Applicant's position that the claims as now presented are clear and fully comply with the requirements of the statute. Accordingly, Applicant respectfully requests that the Examiner remove the rejection in light of the changes to the claims.

Claims 4-8 have been objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot be dependent on another multiple dependent claim.

Applicant has canceled claims 4-8.

Claims 1-3 have been rejected under 35 U.S.C. 102(a) as being anticipated by Zotti et

al. (US 2003/0171823).

Applicant has amended claim 1 to provide that the first annular mesh layer and the second annular mesh layer are connected by a plurality of connection points on one common side of the access slits based on a peripheral direction. This is a completely different approach than that of Zotti et al. Zotti et al. discloses a mesh made of monofilament polypropylene that has an upper layer 1' and a lower layer 1" that are joined by welding along almost the entire length of their edges p. According to Zotti et al., the layers 1' and 1" are not welded in the zone q between the radial slits 3', 3". Zotti et al. does not teach or suggest that the combination of a plurality of annular mesh layers that are connected on one common side of a plurality of access slits by a plurality of connection points. Compared with Zotti et al., the mesh layers of the present invention are connected at a plurality of connection points. This does not provide a continuous joining of the edges of the mesh layers as disclosed in Zotti et al. so that the implant of the present invention can be more easily manipulated and placed during implantation. The implant of the present invention provides a much more flexible structure compared to the implant of Zotti et al. In contrast to the present invention, the continuous welding of the two layers 1' and 1" of Zotti et al. provides for a very rigid structure that does not allow the implant to be easily maneuvered during hernia implantation as a result of the continuous welding of the edges of the layers 1' and 1". As such, the prior art as a whole takes a completely different approach and fails to teach or suggest important features of the claimed combination. Accordingly, Applicant respectfully requests that the Examiner favorably consider claim 1 as now presented and all claims that depend thereon.

Applicant has added new claims 9-22. New independent claims 9, 10 and 11 provide for features similar to those found in amended claim 1, but in different claim language. Specifically, claim 9 highlights the location of some of the connection points and claim 10 defines the composition of the mesh layers. New independent claim 11 highlights that the mesh layers are provided with a coating. New dependent claims 12-22 have been added to further clarify the features of the invention. Applicant respectfully requests that the Examiner favorably consider new claims 9-22.

Favorable consideration on the merits is requested.

Respectfully submitted
for Applicant,



By: _____
John James McGlew
Registration No. 31,903
McGLEW AND TUTTLE, P.C.

- and -



By: _____
Brian M. Duncan
Registration No. 58,505
McGLEW AND TUTTLE, P.C.

Enclosed: Substitute Specification and Marked up copy of Original Specification

JJM:BMD

72386-7

DATED: September 9, 2010
BOX 9227 SCARBOROUGH STATION
SCARBOROUGH, NEW YORK 10510-9227
(914) 941-5600

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE
IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-
0410.